SHER TREMONTE LLP

September 13, 2016

**VIA ECF**

The Honorable P. Kevin Castel
United States District Judge
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

**Re: *United States v. Gary Hirst*, 15 Cr. 643(PKC)**

Dear Judge Castel:

Today we advised the government that we intend to call a computer forensics expert in defense of our client, Gary Hirst, to testify concerning the metadata contained in the native version of Government Exhibit 509, an email that attached documents related to the Shahini share issuance, including the Shahini Warrant Agreement. *See* GEX 509, attached hereto as **Exhibit A**. The native version of the email was received by our office on September 7, 2016. We write to advise the Court regarding the circumstances that led to our obtaining these documents, engaging the expert we disclosed today, and to explain the timing of that disclosure. A copy of our disclosure letter to the government is attached hereto as **Exhibit B**.

As is clear from the Indictment, multiple government submissions to the Court, and the government's opening statement, one of the critical factual issues to be determined in this case is the date that Mr. Hirst executed the Warrant Agreement, which gave Shahini the right to acquire Gerova shares at a certain price. The document is dated March 29, 2010. The government contends that this document was backdated – *i.e.*, instead of being prepared and executed on March 29, 2010, when Gerova's stock was trading below the strike price, the government alleges the Warrant Agreement was actually created nearly two months later, when the warrants were in the money.

For several months, the defense has been endeavoring to obtain all potentially relevant information concerning the Warrant Agreement and other key documents and events in this case. Among other efforts, we asked the government for an opportunity to inspect the original documents, including the Warrant Agreement. We also asked for detailed information about the source from which the government obtained the documents. In response, the government informed us, by email dated August 8, 2016, that it did not have originals of any of the documents in the case. *See* Aug. 8, 2016 email from Brian Blais to Michael Tremonte *et al.*, attached hereto as **Exhibit C**.

Simultaneously, we sought evidence through Rule 17(c) subpoenas and through a FOIA request to the SEC.[1] We served one such subpoena on Hodgson Russ LLP, counsel to Gerova, broadly seeking all documents related to Gerova. When we served the subpoena, we understood that the firm had not made a production to the government, as the Rule 16 discovery does not include a Hodgson Russ production.[2] Hodgson Russ's general counsel objected to our subpoena on several grounds, including that most of the responsive documents would be protected by the attorney client privilege. Accordingly, we sought to negotiate a narrower production from Hodgson Russ. Ultimately, we asked Hodgson Russ to produce only the documents in that firm's possession that reference the name Shahini (and certain variants spellings of that name). On August 18, counsel for Hodgson Russ advised us that the firm possessed a small number of documents responsive to our narrowed request. However, the firm did not produce the documents at that time because it asserted that they were privileged and asked whether we had any information relating to waiver.[3]

On August 24, we received the government's proposed exhibits and noticed that two exhibits bore Bates prefixes "HR" and appeared to be internal Hodgson Russ documents. We subsequently asked the government to explain where these documents came from since, to our knowledge, Hodgson Russ had not made a production to the government. *See* Sept. 6, 2016 email from Justine Harris to Rebecca Mermelstein, et al., attached hereto as **Exhibit G**. On September 6, 2016, the government forwarded us an email that Hodgson Russ had sent to the SEC, which contained a PDF version of the email that had been marked as Government Exhibit 509. *See* Sept. 6, 2016 email from Brian Blais to Michael Tremonte, et al., attached hereto as **Exhibit H**. We immediately requested that Hodgson Russ provide the defense with a copy of all documents produced to either the SEC or the U.S. Attorney's Office. We also attached a copy of the two government exhibits that appeared to have been produced by the firm. *See* Sept. 6, 2016 email from Theresa Trzaskoma to Kevin Kearney, attached hereto as **Exhibit I**.[4]

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[1] The SEC denied our FOIA request on the basis of FOIA Exemptions 7(A) and 7(D). *See* Aug. 8, 2016 SEC Response Letter, attached hereto as **Exhibit D**.

[2] Although several Hodgson Russ documents, including the email later marked as Government Exhibit 509, were provided to the defense in Rule 16 in PDF format, they were inadvertently mismarked to indicate that they had come from several sources other than Hodgson Russ. The confusion was further compounded by the fact that numerous documents from Continental Stock Transfer had been incorrectly Bates stamped, because in addition to being a relevant entity in this case in its own right, Hodgson Russ also represented Continental in its response to the SEC's subpoena. After we indicated to the government that there were Continental documents in the government's exhibits that did not correspond to the Bates ranges of the Continental documents in our possession, the government advised that it had just received documents produced by Continental to the SEC that had never been previously turned over to the U.S. Attorney's Office and consequently never turned over in Rule 16. Accordingly, the government provided 1,980 pages of Continental documents the week before trial in two separate productions. See Sept. 8, 2016 email from Brian Blais to Michael Tremonte *et al.*, attached hereto as **Exhibit E**.

[3] We sought to clarify the privilege waiver issue by contacting counsel for the company's Joint Provisional Liquidators, who did not respond. By email dated August 24, the government confirmed that "Gerova has not waived any privileges." *See* Aug. 24 email from Brian Blais to Michael Tremonte *et al.*, attached hereto as **Exhibit F**.

On September 6 and 7, just one week before trial, Hodgson Russ provided us with documents that it had previously turned over to the SEC. Among the documents Hodgson Russ sent on September 7 was a native version of Government Exhibit 509, an email that attached critical documents related to the Shahini share issuance, including the Warrant Agreement. *See* Sept. 7, 2016 email from Kevin Kearney to Theresa Trzaskoma, attached hereto as **Exhibit L**. We had never before seen a native version of this email and its attachments. Hodgson Russ also provided us with a spreadsheet of all documents it had produced to the SEC.[5]

After receiving the native version of the email, we looked up the properties of the documents attached to it, which include the Warrant Agreement. We observed what appeared to be a timestamp indicating that the Warrant Agreement was created on April 9, 2010. Based on our preliminary conclusion that this timestamp could be exculpatory, in that, if confirmed, it would contradict the government's theory that the document was created after Shahini was allegedly recruited to the conspiracy in late May 2010, we immediately contacted Stroz Friedberg, a forensic investigations firm, in order to consult with a forensic expert. Stroz Friedberg provided an expert consultant who analyzed the metadata inherent in the document. On September 11, 2016, the consulting expert confirmed the accuracy of the April 9, 2010 timestamp. We therefore determined to use the native version of the email in our case-in-chief, and immediately turned it over to the government as a supplemental Rule 16 disclosure.[6] On September 12, 2016, we had further discussions with Stroz Friedberg, which provided us with the *curriculum vitae* of an expert who was available to testify at trial, John Shumway. Mr. Shumway conducted an independent analysis of the metadata, which was completed today. Immediately after trial today, we conferred with Mr. Shumway, who confirmed that he is available to testify as an expert witness for the defense. We provided the government with notice of the expert this evening.

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[4] We also asked the government to confirm whether it considered documents in the possession of the SEC to be in the government's possession, custody and control. *See* Sept. 9, 2016 email from Justine Harris to Brian Blais *et al.*, attached hereto as **Exhibit J**. The government responded that "[t]he SEC is most emphatically a distinct entity from the USAO. To be very clear, we do not have possession, custody and control of materials in the possession of the SEC." Sept. 9, 2016 email from Brian Blais to Justine Harris *et al.*, attached hereto as **Exhibit K**.

[5] We have not provided this spreadsheet as an Exhibit because it exceeds 500 pages. If the Court wishes to review it, we can produce it in electronic or hard copy. The email in question appears on page 379 of the spreadsheet.

Respectfully submitted,

/s/ *Michael Tremonte*

Michael Tremonte
Justine A. Harris
Noam Biale
SHER TREMONTE LLP
80 Broad Street, 13th Floor
New York, NY 10004
Tel: (212) 202-2600
Fax: (212) 202-4156
Email: mtremonte@shertremonte.com

cc: AUSA Brian Blais (via ECF)
AUSA Rebecca Mermelstein (via ECF)
AUSA Aimee Hector (via ECF)

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[6] We do not know whether the government already had the native file in its possession. We turned over the native file to the government in an abundance of caution as soon as we learned from the Stroz Friedberg consultant that the metadata verified our hunch regarding the document's creation.

# Exhibit A

**Krieger, Kathleen**

**From:** Weiss, Stephen <SWeiss@hodgsonruss.com>
**Sent:** Tuesday, September 28, 2010 12:35 PM
**To:** Chalian, Shant
**Subject:** FW: Warrant
**Attachments:** Continental Documents Supporting Share Issuance 052710.pdf; Continental Share issuance - Legal Opinion 052710.pdf; Shahini warrant.pdf; Shahini final executed 012210.pdf

Do you know anything about this???

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**From:** Michael Hlavsa [mailto:mhlavsa@gerova.com]
**Sent:** Tuesday, September 28, 2010 12:27 PM
**To:** Weiss, Stephen
**Subject:** Warrant

Steve:

Per our conversation, attached are the documents that I have received in connection with warrant being issued and exercised.

Michael

**MICHAEL HLAVSA**
**Chief Financial Officer**
**GEROVA Financial Group, Ltd.**
Cumberland House, 5th Floor
1 Victoria Street
Hamilton, HM 11
Bermuda
Main telephone: 441-296-7777
Direct: 954-727-1925 | Cell: 954-868-7366
Email: mhlavsa@gerova.com

GOVERNMENT EXHIBIT 509
15 Cr/ 643 (PKC) (ID)

SEC-CST-E-0004460

# Exhibit B

SHER TREMONTE LLP

September 13, 2016

**BY EMAIL**

Aimee Hector
Brian R. Blais
Rebecca Mermelstein
Assistant U.S. Attorneys
Southern District of New York
One Saint Andrew's Plaza
New York, NY 10007

**Re: *United States v. Gary Hirst*, 15 Cr. 643 (PKC)**

Counsel:

The defense hereby provides notice that it anticipates calling John Shumway as an expert witness at trial in this matter.

Mr. Shumway is a Senior Consultant at Stroz Friedberg, with expertise in conducting forensic investigations of computer data. Mr. Shumway has eight years of experience as a digital forensic investigator and evidence technician. A copy of Mr. Shumway's CV is attached for your review.

Mr. Shumway will testify regarding the metadata inherent to the PDF document "Shahini warrant.pdf," which was attached to a September 28, 2010 email from Stephen Weiss to Shant Chalian, a copy of which was provided to the government in the defendant's Rule 16 disclosure.[1] Mr. Shumway will opine that these metadata show, among other things described more fully below, that the document was created on April 9, 2010.

The bases and reasons for Mr. Shumway's opinion are as follows. Mr. Shumway analyzed the metadata associated with this document using multiple accepted forensic methods. First, he viewed the PDF document through Adobe Reader and Adobe Acrobat, both of which provided the document's metadata. That analysis demonstrated that the document had a creation date of April 9, 2010, using ScanSnap software, a utility

[1] We received this email from Hodgson Russ LLP on September 7, 2016. Following a consultation with Stroz Friedberg to verify the metadata on September 11, 2016, we disclosed it to you that day.

provided with Fujitsu scanner devices, and a last modification date of September 27, 2010. Second, Mr. Shumway used two forensic tools that extract metadata, ExifTool and Xpdf, to verify that the metadata supplied by the Adobe programs was correct. These tools confirmed the creation and modification dates contained in the metadata, which Mr. Shumway had previously found. Third, Mr. Shumway did Internet research, including reviewing information on the Internet Archive, to determine what versions of Adobe were available at the time of the document's creation and whether Adobe was available as a package with a Fujitsu scanner at that time (*i.e.*, on April 9, 2010). His investigation revealed that, as of the April 9, 2010 creation date, Fujitsu scanners were equipped with ScanSnap Manager, software that turned scans into PDF documents. Finally, Mr. Shumway conducted several tests using more recent versions of Adobe to see whether new versions of the program inherit timestamps from older versions and how modifications affect timestamps. This testing showed that the document was not altered by a version of Adobe available later than 2010.

These tests led Mr. Shumway to the following conclusions, which he will offer as expert opinions at trial: First, assuming that the Fujitsu scanner that created the document, and the device to which it was likely attached, were set to the correct date and time, the document was created on April 9, 2010. Second, under similar assumptions, the document was last modified on September 27, 2010. It is not clear what aspect of the document was modified on that date or if the document was modified at all (for example, simply printing to PDF could create a "modification"). One change to the document's metadata that is apparent is that the original version had an internal title, "PARTNERSHIP_AGR_BALKIN," and the current version does not appear to have an internal title. It is not clear, however, when that internal title was removed or whether that removal caused the modification timestamp from September 27, 2010, though it is possible. The data also do not reveal whether the internal title was removed by a user or otherwise dropped from the document by the software. Mr. Shumway concluded that the document was not modified at any time after September 27, 2010, according to available metadata. Finally, based on his research using a current version of the Adobe program, Mr. Shumway concluded that the creation timestamp of April 9, 2010 could not have been altered using the Adobe software.

Sincerely,

/s/ Michael Tremonte
Michael Tremonte
Justine A. Harris
Noam Biale

*Counsel to Gary Hirst*

STROZ FRIEDBERG
CV

# John P. Shumway

SENIOR CONSULTANT

## PROFESSIONAL EXPERIENCE

**STROZ FRIEDBERG**
**Senior Consultant,** November 2015 to Present
**Digital Forensic Associate,** July 2011 to October 2015
**Lead Evidence Technician,** January 2010 to June 2011
**Evidence Technician,** May 2008 to January 2010
**New York, NY**

Conduct digital forensic investigations of laptops, workstations, network assets, email environments, mobile devices, backup tapes, and cloud sources in civil litigation, criminal matters, and internal investigations. Provide client support for matters involving, among other things, spoliation claims, data destruction, electronic discovery data production, theft of trade secrets, and compliance assurance.

Significant matters include:

- Obtained forensic images from a wide range of devices and operating systems in a large-scale, on-site collection as part of a small forensic team over the course of a time constrained operation.
- Determined the locations of files surreptitiously brought by a departed employee to a new employer. Identified the extent of the data's spread across computers and network storage areas. Remediated each occurrence.
- Conducted a thorough analysis of the actions performed on an Apple iPhone and determined the timeline of user activity. Contributed to the development of new forensic techniques and performed extensive testing, including re-creation of the device in particular states and at particular points in time.
- Identified lapses in regulatory reporting and compliance practices within a financial organization through source code review, interviews, and an examination of organizational structure. Worked with client to implement source code changes and certify efforts to bring reporting structure in line with regulatory requirements.
- Verified metadata of files of interest from an alleged whistle-blower and, once verified, compared the files to those on a corporate network, further implicating members of the corporation in an alleged breach of contract.
- Used mobile images, network collections, and workstations to determine a timeline of activity for a group of users in relation to information being propagated through a network and deletion activity.

32 Avenue of the Americas, 4th Floor, New York, NY 10013

jshumway@strozfriedberg.com T: 212.981.6531 strozfriedberg.com

STROZ FRIEDBERG
CV

# John P. Shumway
SENIOR CONSULTANT

- Led a team to investigate a senior IT employee alleged to have misappropriated Human Resources data under his purview. Tracked the exfiltration of data to the former employee's home computer assets and conducted remediation.
- Prepared forensic testimony related to on-going litigation, focusing on improper access to and deletion from business-critical assets. Performed forensic analysis and prepared reports for short-term filing deadlines.
- Performed data analysis in support of a federal investigation to match a timeline of activity from a user's Apple iPhone to a log of that user's presence in a particular location. Created various scripts to automatically detect overlap and evidence of falsification in the records.

## EDUCATION

**University of California, Berkeley**
Honors B.A. in Music, 2007

## CERTIFICATIONS

GIAC Certified Incident Handler - GCIH

## TRAINING

**STROZ FRIEDBERG, LLC**, 2011 – Present
**Internal Digital Forensic Training Program**
Provide and attend regular in-house training presentations on current research and findings in digital forensics, cyber-crime response, computer security, network digital forensic tools, and relevant legal topics.

**SANS INSTITUTE**, 2016
**Hacker Tools, Techniques, Exploits, and Incident Handling**
Attended discussion and training in current techniques used by bad actors against various types of systems. Discussed techniques used for reconnaissance, identification, containment, eradication, and recovery of systems exposed to improper access.

**SANS INSTITUTE**, 2013

32 Avenue of the Americas, 4th Floor, New York, NY 10013

jshumway@strozfriedberg.com T: 212.981.6531 strozfriedberg.com

STROZ FRIEDBERG
CV

# John P. Shumway
SENIOR CONSULTANT

**Advanced Mobile Phone Forensics**
Participated in in-depth discussion and training on state-of-the-art analysis using multiple forensic programs. Trained using real-world scenarios for both live mobile devices and backups, using Research In Motion BlackBerry phones, Apple iPhones and iPads, Windows Mobile systems, Android Devices, and generic devices.

**GUIDANCE SOFTWARE, INC.**, 2011
**EnCase Advanced Computer Forensics**
Attended training course covering the use of Guidance Software's EnCase digital forensic software for advanced analysis of Windows systems, encrypted data, recovered data, and Shadow Volume forensics.

**GUIDANCE SOFTWARE, INC.**, 2011
**EnCase Computer Forensics II Course**
Attended training course covering the use of Guidance Software's EnCase digital forensic software to analyze electronic data.

32 Avenue of the Americas, 4th Floor, New York, NY 10013

jshumway@strozfriedberg.com T: 212.981.6531 strozfriedberg.com

# Exhibit C

**Noam Biale**

**From:** Blais, Brian (USANYS) <Brian.Blais@usdoj.gov>
**Sent:** Monday, August 8, 2016 3:26 PM
**To:** Michael Tremonte; Hector, Aimee (USANYS); Mermelstein, Rebecca (USANYS)
**Cc:** Justine Harris; Noam Biale; Ryan Pollock
**Subject:** RE: Call re Hirst

We do not have the originals of any of the documents you reference below.

The documents with the Bates label GER were produced by the Bermuda Monetary Authority.

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**From:** Michael Tremonte [mailto:MTremonte@shertremonte.com]
**Sent:** Monday, August 08, 2016 2:34 PM
**To:** Hector, Aimee (USANYS); Blais, Brian (USANYS); Mermelstein, Rebecca (USANYS)
**Cc:** Justine Harris; Noam Biale; Ryan Pollock
**Subject:** Re: Call re Hirst

Blais, Aimee and Rebecca,

We'd like to inspect the originals of certain documents, including (a) the original signed Shahini Consulting Agreement and (b) the Shahini Warrant Agreement, (c) the Shahini Warrant Exercise Notice, (d) the May 26, 2010 letter from Gerova to Continental Stock Transfer authorizing the issuance of Gerova shares to Shahini, and (e) the May 27, 2010 Barry Feiner letter. If you have any doubt as to what we're asking to see, please let me know and we can set up a call. We'd also like to know where the following documents come from (i.e., who produced the documents, and if they were obtained pursuant to a search executed by the government, where were they found): GER0078280-285 and GER0078286-291.

Michael Tremonte | Sher Tremonte LLP | 80 Broad Street, 13th Floor, New York, New York 10004 |
tel: 212.202.2600 | direct: 212.202.2603 | fax: 212.202.4156 | mtremonte@shertremonte.com |www.shertremonte.com

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**From:** "Hector, Aimee (USANYS)" <Aimee.Hector@usdoj.gov>
**Date:** Monday, July 25, 2016 at 3:10 PM
**To:** Michael Tremonte <MTremonte@shertremonte.com>, "Blais, Brian (USANYS)" <Brian.Blais@usdoj.gov>, "Mermelstein, Rebecca (USANYS)" <Rebecca.Mermelstein@usdoj.gov>
**Cc:** Justine Harris <JHarris@shertremonte.com>, Noam Biale <NBiale@shertremonte.com>
**Subject:** RE: Call re Hirst

Sure. Are you available at 4?

Best,
Aimee

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**From:** Michael Tremonte [mailto:MTremonte@shertremonte.com]
**Sent:** Monday, July 25, 2016 2:51 PM
**To:** Blais, Brian (USANYS); Mermelstein, Rebecca (USANYS); Hector, Aimee (USANYS)
**Cc:** Justine Harris; Noam Biale
**Subject:** Call re Hirst

Brian, Rebecca, Aimee,

Can we set up a call for tomorrow afternoon to discuss Hirst?  Any time after 2:30 works for us.

Michael Tremonte | Sher Tremonte LLP | 80 Broad Street, 13th Floor, New York, New York 10004 |
tel: 212.202.2600 | direct: 212.202.2603 | fax: 212.202.4156 | mtremonte@shertremonte.com |
www.shertremonte.com

# Exhibit D

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

July 29, 2016

Mrs. Rachel Cuccias
FOIA Professional Services
5885 Airline Road #967
Arlington, TN 38002

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. 16-03616-FOIA

Dear Mrs. Cuccias:

This letter responds to your request, dated and received in this office on June 17, 2016, for information and materials relating to all investigations of Gerova Financial Group, Ltd., during the dates of January 2010 to June 2016, including but not limited to all notes and transcripts of interviews and testimony obtained in connection with such investigations.

We are withholding records that may be responsive to your request under 5 U.S.C. § 552(b)(7)(A), 17 CFR § 200.80(b)(7)(i). This exemption protects from disclosure records compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement activities. Since Exemption 7(A) protects the records from disclosure, we have not determined if other exemptions apply. Therefore, we reserve the right to assert other exemptions when Exemption 7(A) no longer applies.

It is the general policy of the Commission to conduct its investigations on a non-public basis. Thus, subject to the provisions of FOIA, the Commission does not disclose the existence or non-existence of an investigation or information gathered unless made a matter of public record in proceedings brought before the Commission or in the courts. Accordingly, the assertion of this exemption should not be construed as an indication by the Commission or its staff that any violations of law have occurred with respect to any person, entity, or security.

We are withholding additional records that may be responsive to your request under 5 U.S.C. § 552(b)(7)(D), which protects records or information that could reasonably be expected to reveal the identity of a confidential source.

I am the deciding official with regard to this adverse determination. You have the right to appeal my decision to the SEC's General Counsel under 5 U.S.C. § 552(a)(6), 17 CFR § 200.80(d)(5)(iv). The appeal must be received within ninety (90) calendar days of the date of this adverse decision. Your appeal must be in writing, clearly marked "Freedom of Information Act Appeal," and should identify the requested records. The appeal may include facts and authorities you consider appropriate.

You may file your appeal by completing the online Appeal form located at https://www.sec.gov/forms/request_appeal, or mail your appeal to the Office of FOIA Services of the Securities and Exchange Commission located at Station Place, 100 F Street NE, Mail Stop 2465, Washington, D.C. 20549, or deliver it to Room 1120 at that address. Also, send a copy to the SEC Office of the General Counsel, Mail Stop 9612, or deliver it to Room 1120 at the Station Place address.

You also have the right to seek assistance from me as a FOIA Public Liaison or contact the Office of Government Information Services (OGIS) for dispute resolution services. OGIS can be reached at 1-877-684-6448 or https://ogis.archives.gov/?p=/ogis/index.html.

If you have any questions, please contact Pauline Byrd of my staff at byrdp@sec.gov or (202) 551-7357. You may also contact me at foiapa@sec.gov or (202) 551-7900.

Sincerely,

Dave Henshall
FOIA Branch Chief

# Exhibit E

**Noam Biale**

**From:** Blais, Brian (USANYS) <Brian.Blais@usdoj.gov>
**Sent:** Thursday, September 8, 2016 12:11 PM
**To:** Michael Tremonte; Justine Harris; Noam Biale
**Cc:** Hector, Aimee (USANYS); Mermelstein, Rebecca (USANYS)

Here's our best understanding of the Hodgson Russ and CST situation:

1.) Hodgson Ross did make a production to the SEC that was Bates labeled with the range SEC-HR-E-0000001 - 835. For whatever reason, these documents were not included in the SEC"s productions to us, which is why you didn't receive them from us. We obtained them from the SEC this morning and will produce them to you once we have decrypted and copied them.
2.) The July 29, 2015 email from Hodgson Russ that contained the three emails that were later inadvertently marked with CST Bates labels was sent in response to a subpoena issued by the SEC to Hodgson Russ on July 21, 2015. That subpoena, among other things, asked Hodgson Russ for all documents relating to the Shahini consulting and warrant agreements, which were attached to the subpoenas. The three emails were what Hodgson Russ produced in response to that subpoena. The statement in the Hodgson Russ email that "electronic records show no indication that they were created or revised by our firm," refers not to the emails themselves, which are clearly Hodgson Russ documents, but to the attachments to the emails, including the consulting and warrant agreements.
3.) Continental produced documents Bates labeled SEC-CST-E-0000001 – 4496 and SEC-CST-P-0000001 – 256. It appears that a portion of those productions were not produced by the SEC to us and therefore were not produced by the us to you. We have received the missing materials from the SEC this morning and will produce them to you once we have decrypted and copied them.

Please let us know if you have any questions.

Thanks,
Brian

Brian R. Blais
Assistant United States Attorney & Deputy Chief of Appeals
Southern District of New York
One St. Andrew's Plaza
New York, NY 10007
Tel: 212-637-2521
Fax: (212) 637-2452
Email: brian.blais@usdoj.gov

# Exhibit F

## Noam Biale

**From:** Blais, Brian (USANYS) <Brian.Blais@usdoj.gov>
**Sent:** Wednesday, August 24, 2016 3:58 PM
**To:** Michael Tremonte; Mermelstein, Rebecca (USANYS); Hector, Aimee (USANYS)
**Cc:** Justine Harris; Noam Biale; Theresa Trzaskoma; Ryan Pollock
**Subject:** RE: U.S. v. Hirst -- Gerova Privilege Waiver

Gerova has not waived any privileges.

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**From:** Michael Tremonte [mailto:MTremonte@shertremonte.com]
**Sent:** Wednesday, August 24, 2016 10:52 AM
**To:** Blais, Brian (USANYS); Mermelstein, Rebecca (USANYS); Hector, Aimee (USANYS)
**Cc:** Justine Harris; Noam Biale; Theresa Trzaskoma; Ryan Pollock
**Subject:** U.S. v. Hirst -- Gerova Privilege Waiver

Brian,

Based on our review of the government's discovery, including the 3500 material, we understand that Gerova has waived the privilege with respect to attorney-client communications and attorney work product, or that there is some other basis for not recognizing a privilege between the company and its counsel. Please confirm that this is correct.

Michael Tremonte | Sher Tremonte LLP | 80 Broad Street, 13th Floor, New York, New York 10004 |
tel: 212.202.2600 | direct: 212.202.2603 | fax: 212.202.4156 | mtremonte@shertremonte.com |
www.shertremonte.com

# Exhibit G

## Noam Biale

**From:** Justine Harris
**Sent:** Tuesday, September 6, 2016 12:33 PM
**To:** Mermelstein, Rebecca (USANYS); Blais, Brian (USANYS); Hector, Aimee (USANYS)
**Cc:** Michael Tremonte; Noam Biale
**Subject:** Rule 16/Production issues

Rebecca, Brian, Aimee,

Two questions about the government's production.

First, you have mentioned that Hodgson Russ has produced documents in this case. Also, we see that at least one of the proposed government exhibits were marked with "HR," presumably as having been obtained from Hodgson Russ. Especially as you are calling a Hodgson Russ lawyer to testify in this case, we have been focused on the review of Hodgson Russ documents. According to our records, however, there are no Hodgson Russ productions in the Rule 16 discovery. Can you clarify what happened with Hodgson Russ documents? Is there a production from Hodgson Russ (to the SEC or your office) that has not been produced to us?

Second, you mentioned that Hamels had typed up some notes of his own (indeed they are referenced in the 3500). You said you thought they were in the Rule 16. Can you point us to those? We can't seem to find them.

Many thanks.

Justine

Justine A. Harris | Partner | Sher Tremonte LLP | 80 Broad Street, 13th Floor, New York, New York 10004 |
tel: 212.202.2600 | direct: 212.300.2440 | fax: 212.202.4156 | jharris@shertremonte.com | www.shertremonte.com

# Exhibit H

## Noam Biale

**From:** Blais, Brian (USANYS) <Brian.Blais@usdoj.gov>
**Sent:** Tuesday, September 6, 2016 4:00 PM
**To:** Michael Tremonte; Justine Harris; Noam Biale
**Cc:** Hector, Aimee (USANYS); Mermelstein, Rebecca (USANYS)
**Subject:** FW: Gerova - emails
**Attachments:** 9.28.2010 email with attachments.pdf; 9.28.2010 email to J. Bianco.pdf; 9.28.2010 email to Shant Chalian.pdf

Here's the best we can determine on the Hodgson & Russ versus CST issue:

The SEC did subpoena documents from Hodgson & Russ. Those documents were produced with a HR Bates label. The SEC did subpoena documents from Continental as well, which were produced with two Bates labels, SEC-CST-P and SEC-CST-E.

You will see, however, that there is an email that I am attaching below (which has been previously been produced to you at SEC-CST-E-0004489) in which someone at Hodgson & Russ forwarded three documents to the SEC. (Those three documents are attached to this email and are reflected in our productions to you as SEC-CST-E-0004460, SEC-CST-E-0004461 and SEC-CST-E0004490). The original attachments, as you will see, do not have bates labels. We suspect, but can't confirm, that the SEC inadvertently put CST bates labels on these documents before including them in their database. As far as we can tell, these are the only three documents that bear a CST Bates label but which appear in all likelihood to be Hodgson & Russ documents.

Please let us know if you have any questions.

---

**From:** Kearney, Kevin [mailto:KKearney@hodgsonruss.com]
**Sent:** Thursday, July 30, 2015 11:15 AM
**To:** Baker, H. Gregory
**Subject:** Gerova - emails

Greg, it was good to talk yesterday, although at times the cell phone reception was less than great. Here are the emails I described, and to summarize part of our conversation, our electronic records show no indication that they were created or revised by our firm. I will continue our review of electronic documents, and will do my best to get back to you next week concerning my review of the emails requested, and hopefully of our paper files, such as they are. My understanding is that you will have some flexibility with respect to timing of production, especially as to a privilege log. If any of this is off track please let me know.
Best
Kevin

**Kevin M. Kearney**

Hodgson Russ LLP

Tel: 716.848.1385

Fax: 716.819.4610

Hodgson Russ LLP
ATTORNEYS

website | vCard | bio | email

The Guaranty Building | 140 Pearl Street, Suite 100 | Buffalo, NY 14202
Tel: 716.856.4000 | map

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# Exhibit I

**Noam Biale**

---

**From:** Theresa Trzaskoma
**Sent:** Tuesday, September 6, 2016 2:31 PM
**To:** Kearney, Kevin
**Cc:** Michael Tremonte; Justine Harris; Noam Biale
**Subject:** RE: USA v. Jason Galanis, et al. - Subpoena
**Attachments:** 224.pdf; 509 (003).pdf

Dear Kevin,

We have been trying to get to the bottom of the privilege question. Further to that end, we need a response to the following issues.

First, we now believe that Hodgson Russ previously produced documents to either the SEC or the US Attorney's Office. This belief is based on the "HR" bates prefix that appears on the attached Government Exhibit 224. Apart from this document, however, we do not have any other documents that Hodgson Russ previously produced. We therefore request that you provide us with all documents that your firm previously produced to the SEC or US Attorney's Office. We also request that you produce to us any privilege log that Hodgson Russ provided to the SEC or US Attorney's Office.

Second, we also believe that certain of the Hodgson Russ documents may have been produced with inaccurate bates labels. The attached Government Exhibit 509, for example, is an internal Hodgson Russ communication between Mr. Weiss and Mr. Chalian. Yet the bates stamp indicates (erroneously, we believe) that it was produced by Continental Stock Transfer, another client of your firm. Do you have any explanation for this? Can you confirm that this is a Hodgson Russ document rather than a CST document?

Finally, regarding the "Shahini" documents that you identified in your search, would you please send us a log so that we know what documents you are withholding on the grounds of privilege?

As you know, our trial starts next week so we appreciate your prompt attention to these matters.

Best regards,
Theresa

---

**From:** Kearney, Kevin [mailto:KKearney@hodgsonruss.com]
**Sent:** Thursday, August 18, 2016 3:25 PM
**To:** Theresa Trzaskoma <TTrzaskoma@shertremonte.com>
**Subject:** RE: USA v. Jason Galanis, et al. - Subpoena

Theresa, narrowing the scope produced an acceptable number of documents, but absent waivers of privilege (I have no idea if Gerova still has anyone authorized to waive, and am not aware of any waiver to date) I do not see how we can produce any of the communications. Based on the information available to me there do not appear to be any third parties copied on any of the emails. If you have information on the privilege front that would be helpful.
Further, I still have not received an answer concerning the authority under which the subpoena was issued. An explanation would be appreciated.
Kevin

---

**From:** Theresa Trzaskoma [mailto:TTrzaskoma@shertremonte.com]
**Sent:** Thursday, August 18, 2016 3:14 PM

**To:** Kearney, Kevin <KKearney@hodgsonruss.com>
**Subject:** Re: USA v. Jason Galanis, et al. - Subpoena

Kevin,

Please let us know when you can get us these documents.

Thank you,

Theresa

---

**From:** Theresa Trzaskoma
**Sent:** Thursday, August 11, 2016 12:21:29 PM
**To:** Kearney, Kevin
**Cc:** Michael Tremonte
**Subject:** Re: USA v. Jason Galanis, et al. - Subpoena

Kevin,

We propose to start with the hits for Shahini (including the related terms of "Shanini", "Shahaini" and "Ymer"). We will try to figure out a way to refine/narrow the remaining search terms.

Let me know if that works.

Thank you,
Theresa

On Aug 11, 2016, at 12:08 PM, Kearney, Kevin <KKearney@hodgsonruss.com> wrote:

> Theresa, these search terms produced over 36,000 responsive emails. I am reasonably certain you are not interest in reviewing that many, and I know for certain I am not. If you want our assistance you will need to be much more precise.
>
> ---
>
> **From:** Theresa Trzaskoma [mailto:TTrzaskoma@shertremonte.com]
> **Sent:** Wednesday, August 10, 2016 4:52 PM
> **To:** Kearney, Kevin <KKearney@hodgsonruss.com>
> **Cc:** Michael Tremonte <MTremonte@shertremonte.com>
> **Subject:** RE: USA v. Jason Galanis, et al. - Subpoena
>
> Dear Kevin,
>
> In the interest of trying to obtain information in an expeditious manner, we will agree to narrow our subpoena demands considerably. Specifically, we propose that Hodgson Russ run searches in the email accounts of Steven Weiss, Shant Chalian and Eric Pinero for the following search terms:

? Gerova
? Fund.com
? Hirst
? Galanis
? Shahini
? Shanini
? Shahaini
? Ymer
? Wimbledon
? Weston

The time period for our request is September 2009 to December 2010.

Please let me know if this is acceptable to you.

Regards,
Theresa

---

**From:** Kearney, Kevin [mailto:KKearney@hodgsonruss.com]
**Sent:** Wednesday, August 10, 2016 8:14 AM
**To:** Theresa Trzaskoma <TTrzaskoma@shertremonte.com>
**Subject:** RE: USA v. Jason Galanis, et al. - Subpoena

Theresa, I am not sure what my availability will be tomorrow, and I am tied up this afternoon. What would be more helpful is a written communication from you describing how you propose to narrow the scope of the subpoena.
Kevin

**Kevin M. Kearney**

Hodgson Russ LLP

Tel: 716.848.1385

Fax: 716.819.4610

<image001.png>

website | vCard | bio | email

The Guaranty Building | 140 Pearl Street, Suite 100 | Buffalo, NY 14202
Tel: 716.856.4000 | map

<image002.png><image003.png>

---

**From:** Theresa Trzaskoma [mailto:TTrzaskoma@shertremonte.com]
**Sent:** Tuesday, August 9, 2016 5:53 PM
**To:** Kearney, Kevin <KKearney@hodgsonruss.com>
**Cc:** Michael Tremonte <MTremonte@shertremonte.com>
**Subject:** FW: USA v. Jason Galanis, et al. - Subpoena

Dear Kevin,

May we schedule some time tomorrow afternoon or Thursday morning to discuss this matter?

Regards,
Theresa

---

**From:** "Thomas, Colleen" <CAthomas@hodgsonruss.com>
**Date:** Monday, August 8, 2016 at 11:05 AM
**To:** Michael Tremonte <MTremonte@shertremonte.com>
**Cc:** "Kearney, Kevin" <KKearney@hodgsonruss.com>
**Subject:** USA v. Jason Galanis, et al. - Subpoena

Dear Mr. Tremonte:

Attached is a letter from Kevin Kearney regarding the above matter.

**Colleen Thomas**
OGC Team Lead
Office of General Counsel
Kevin M. Kearney
Robert B. Conklin
Hodgson Russ LLP

Tel: 716.848.1611
Fax: 716.849.0349

<image004.png>

website | email

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<image005.png><image006.png>

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# Exhibit J

## Noam Biale

**From:** Justine Harris
**Sent:** Friday, September 9, 2016 3:20 PM
**To:** Blais, Brian (USANYS); Mermelstein, Rebecca (USANYS); Hector, Aimee (USANYS)
**Cc:** Noam Biale; Michael Tremonte
**Subject:** Production issues/Hodgson Russ

Brian,

Thank you for the additional information about the Continental and Hudgson & Ross documents over the last few days. We have the following additional questions:

-As an initial matter, please advise if it is your position that the SEC is distinct from the USAO in terms of determining whether or not materials are within your possession, custody and control. We assume that you have possession, custody and control of everything in the SEC's possession. Let us know if that assumption is incorrect.

-In your email from 9/8, you indicated that you would be producing to us documents SEC-HR-E1-835 – namely, a total of 835 pages. However, the cd we received contains only the following Bates numbers:

1) SEC-CST-E-0004493
2) SEC-CST-E-0004496
3) HR 5001 ( also stamped SEC-HR-E-0000001) THROUGH HR 5213 (also stamped SEC-HR-E-0000213)
4) SEC-HR-E-0000214
5) SEC-CST-E-0002954 THROUGH SEC-CST-E-0004492
6) HR 0001 (also stamped SEC-HR-E-0000758) THROUGH HR 0078 (also stamped SEC-HR-E-0000835)
7) SEC-CST-E-00003119 THROUGH SEC-CST-E-0003243

By our count, that is a total of 293 pages of Hodgson Russ documents. We therefore seem to still be missing over 500 pages of Hodgson Russ related documents.

-Also, as I mentioned in my email earlier this week, we actually did not have **any** Hodgson Russ documents in our Rule 16 production, including the documents provided by the government in exhibit 224. Given this confusion, can you please confirm the Bates ranges for the entire H&R production in the government's possession?

-In the September 1, 2015 letter from Hodgson Russ to the SEC, it offers the SEC the opportunity to "identify specific e-mails (or date ranges) that we can review for privilege, to expedite production of the most relevant documents." Do you know what additional requests, if any, were made by the SEC based on that spreadsheet? Were any other emails produced to the SEC, other than the few emails that had previously been sent by email from Kevin Kearney to Gergory Barker on July 30, 2015?

-When did the USAO receive the spreadsheet of responsive emails prepared by Hodgson Russ?

-As you know, there is a gap in the HR Bates numbers described in the September 1, 2015 letter. Are you aware of any HR documents produced with Bates ranges 835-4999?

We are also still confused about Aimee's email concerning the exculpatory email recently retrieved from Mr. Hlavsa's laptop. In whose possession is this laptop now? If it's in Mr. Hlavsa's possession, what is the basis for permitting him to maintain possession of it, when it clearly contains materials that are exculpatory and relevant to the defense? Has the government ascertained whether there are other emails in Mr. Hlavsa's possession that have not been produced?

Relatedly, we understand that Mr. Hlavsa gave documents he believed to be company documents to the Joint Provisional Liquidators for a privilege review. However, when we recently served a subpoena on the Joint Provisional Liquidators, Mr. Reynolds informed us that he was not able to accept service of a subpoena aimed at Gerova. Accordingly, we ask that you require Mr. Hlavsa's lawyer to produce to a taint team at the USAO the same documents he provided to the Liquidators, so that these documents can be reviewed for privilege and relevancy.

Let me know if it makes sense to set up a call on these issues, perhaps with the SEC on the phone.

Best,

-Justine

Justine A. Harris | Partner | Sher Tremonte LLP | 80 Broad Street, 13th Floor, New York, New York 10004 |
tel: 212.202.2600 | direct: 212.300.2440 | fax: 212.202.4156 | jharris@shertremonte.com | www.shertremonte.com

# Exhibit K

## Noam Biale

**From:** Blais, Brian (USANYS) <Brian.Blais@usdoj.gov>
**Sent:** Friday, September 9, 2016 5:22 PM
**To:** Justine Harris; Mermelstein, Rebecca (USANYS); Hector, Aimee (USANYS)
**Cc:** Noam Biale; Michael Tremonte
**Subject:** RE: Production issues/Hodgson Russ

First, we are leaving a CD downstairs with additional exhibits/3500 material. The password is **Sept092016!.**

I have copied your questions here and then will answer them seriatim.

Request: -As an initial matter, please advise if it is your position that the SEC is distinct from the USAO in terms of determining whether or not materials are within your possession, custody and control. We assume that you have possession, custody and control of everything in the SEC's possession. Let us know if that assumption is incorrect.

Response: The SEC is most emphatically a distinct entity from the USAO. To be very clear, we do not have possession, custody and control of materials in the possession of the SEC. Our investigation of this matter with the SEC was a parallel, not a joint, investigation. Although we can certainly request access to materials that are in the SEC's possession, custody and control, we have no control over what materials they give to us in response to our requests.

Request: -In your email from 9/8, you indicated that you would be producing to us documents SEC-HR-E1-835 – namely, a total of 835 pages. However, the cd we received contains only the following Bates numbers:

1) SEC-CST-E-0004493
2) SEC-CST-E-0004496
3) HR 5001 ( also stamped SEC-HR-E-0000001) THROUGH HR 5213 (also stamped SEC-HR-E-0000213)
4) SEC-HR-E-0000214
5) SEC-CST-E-0002954 THROUGH SEC-CST-E-0004492
6) HR 0001 (also stamped SEC-HR-E-0000758) THROUGH HR 0078 (also stamped SEC-HR-E-0000835)
7) SEC-CST-E-00003119 THROUGH SEC-CST-E-0003243

By our count, that is a total of 293 pages of Hodgson Russ documents. We therefore seem to still be missing over 500 pages of Hodgson Russ related documents.

Response: we have painstakingly reviewed the CST and Hodgson and Ross productions to you. We believe that you do not have certain CST documents, which we just obtained from the SEC today. We are including on the CD with the 3500 material/exhibits, documents with the following Bates ranges: SEC-CST-E3198-3223 and 3352-4449. We believe that after that production, you should have all of the CST documents produced to the SEC.

We also believe that you already have the entirety of the Hodgson Russ production to the SEC. Those documents fall into four buckets:

1.) The documents identified with Hodgson Russ Bates labels 5001-5213 (which bear SEC Bates labels SEC-HR-E-1-213).
2.) The 9/1/15 cover letter from Hodgson Russ (SEC bates label SEC-HR-214)
3.) The responsive email list I sent you earlier today that I marked with bates labels HODGSON 113-655 (SEC Bates labels SEC-H-215-757)
4.) The documents identified with Hodgson Russ Bates label 1-78 (which bear SEC Bates labels SEC-HR-758-853)

Sorry for the confusion of the multiple Bates ranges, but we believe that that is the entirety of the Hodgson production to the SEC.

Request: -Also, as I mentioned in my email earlier this week, we actually did not have **any** Hodgson Russ documents in our Rule 16 production, including the documents provided by the government in exhibit 224. Given this confusion, can you please confirm the Bates ranges for the entire H&R production in the government's possession?

Response: see above.

Request: -In the September 1, 2015 letter from Hodgson Russ to the SEC, it offers the SEC the opportunity to "identify specific e-mails (or date ranges) that we can review for privilege, to expedite production of the most relevant documents." Do you know what additional requests, if any, were made by the SEC based on that spreadsheet? Were any other emails produced to the SEC, other than the few emails that had previously been sent by email from Kevin Kearney to Gergory Barker on July 30, 2015?

Response: I am advised by the SEC that they have no record of requesting additional emails or that any other emails were produced.

Request: -When did the USAO receive the spreadsheet of responsive emails prepared by Hodgson Russ?

Response: 12:37 a.m. on 9/9/16.

Request: -As you know, there is a gap in the HR Bates numbers described in the September 1, 2015 letter. Are you aware of any HR documents produced with Bates ranges 835-4999?

Response: we are not aware of any documents produced by Hodgson other than the ones identified above.

Request: We are also still confused about Aimee's email concerning the exculpatory email recently retrieved from Mr. Hlavsa's laptop. In whose possession is this laptop now? If it's in Mr. Hlavsa's possession, what is the basis for permitting him to maintain possession of it, when it clearly contains materials that are exculpatory and relevant to the defense? Has the government ascertained whether there are other emails in Mr. Hlavsa's possession that have not been produced?

Response: Hlavsa is in possession of his laptop. It is not in the possession, custody or control of the Government. We have explained the circumstances under which we obtained the email produced to you. If you believe that a Government witness is in possession of materials that are relevant to your defense, you have the full ability to subpoena those materials from that witness.

Request: Relatedly, we understand that Mr. Hlavsa gave documents he believed to be company documents to the Joint Provisional Liquidators for a privilege review. However, when we recently served a subpoena on the Joint Provisional Liquidators, Mr. Reynolds informed us that he was not able to accept service of a subpoena aimed at Gerova. Accordingly, we ask that you require Mr. Hlavsa's lawyer to produce to a taint team at the USAO the same documents he provided to the Liquidators, so that these documents can be reviewed for privilege and relevancy.

Response: We are not in possession of the documents Hlavsa gave to the JPL, nor can we require a Bermuda entity to accept service of a U.S. subpoena. You can certainly seek to serve the JPL subpoena pursuant to the term of the Hague Convention. We have no greater ability to subpoena privileged documents from Hlavsa than you do, nor do we believe that we are under any obligation to do so. If you believe that you are entitled to materials in the possession, custody or control of Mr. Hlavsa, you have full ability to subpoena those materials from him and/or move to compel production of materials that you believe have been improperly withheld from you.

**From:** Justine Harris [mailto:JHarris@shertremonte.com]
**Sent:** Friday, September 09, 2016 3:20 PM
**To:** Blais, Brian (USANYS) <BBlais@usa.doj.gov>; Mermelstein, Rebecca (USANYS) <RMermelstein@usa.doj.gov>; Hector, Aimee (USANYS) <AHector@usa.doj.gov>
**Cc:** Noam Biale <NBiale@shertremonte.com>; Michael Tremonte <MTremonte@shertremonte.com>
**Subject:** Production issues/Hodgson Russ

Brian,

Thank you for the additional information about the Continental and Hudgson & Ross documents over the last few days. We have the following additional questions:

-As an initial matter, please advise if it is your position that the SEC is distinct from the USAO in terms of determining whether or not materials are within your possession, custody and control. We assume that you have possession, custody and control of everything in the SEC's possession. Let us know if that assumption is incorrect.

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7) SEC-CST-E-00003119 THROUGH SEC-CST-E-0003243

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-When did the USAO receive the spreadsheet of responsive emails prepared by Hodgson Russ?

-As you know, there is a gap in the HR Bates numbers described in the September 1, 2015 letter. Are you aware of any HR documents produced with Bates ranges 835-4999?

We are also still confused about Aimee's email concerning the exculpatory email recently retrieved from Mr. Hlavsa's laptop. In whose possession is this laptop now? If it's in Mr. Hlavsa's possession, what is the basis for permitting him to maintain possession of it, when it clearly contains materials that are exculpatory and relevant to the defense? Has the government ascertained whether there are other emails in Mr. Hlavsa's possession that have not been produced?

Relatedly, we understand that Mr. Hlavsa gave documents he believed to be company documents to the Joint Provisional Liquidators for a privilege review. However, when we recently served a subpoena on the Joint Provisional Liquidators, Mr. Reynolds informed us that he was not able to accept service of a subpoena aimed at Gerova. Accordingly, we ask that you require Mr. Hlavsa's lawyer to produce to a taint team at the USAO the same documents he provided to the Liquidators, so that these documents can be reviewed for privilege and relevancy.

Let me know if it makes sense to set up a call on these issues, perhaps with the SEC on the phone.

Best,

-Justine

Justine A. Harris | Partner | Sher Tremonte LLP | 80 Broad Street, 13th Floor, New York, New York 10004 |
tel: 212.202.2600 | direct: 212.300.2440 | fax: 212.202.4156 | jharris@shertremonte.com | www.shertremonte.com

# Exhibit L

**Noam Biale**

| | |
|---|---|
| **From:** | Theresa Trzaskoma |
| **Sent:** | Wednesday, September 7, 2016 3:12 PM |
| **To:** | Michael Tremonte; Ryan Pollock; Noam Biale; Justine Harris |
| **Subject:** | Fwd: Warrant |
| **Attachments:** | Continental Documents Supporting Share Issuance 052710.pdf; ATT00001.htm; Continental Share issuance - Legal Opinion 052710.pdf; ATT00002.htm; Shahini warrant.pdf; ATT00003.htm; Shahini final executed 012210.pdf; ATT00004.htm |

Begin forwarded message:

**From:** "Kearney, Kevin" <KKearney@hodgsonruss.com>
**To:** "Theresa Trzaskoma" <TTrzaskoma@shertremonte.com>
**Subject: FW: Warrant**

Theresa, here is the Gov Ex 509 email with attachments. I will forward other documents where Shahini is mentioned which are not privileged.
Kevin

---

**From:** Weiss, Stephen [mailto:SWeiss@hodgsonruss.com]
**Sent:** Tuesday, September 28, 2010 12:35 PM
**To:** Chalian, Shant <SChalian@hodgsonruss.com>
**Subject:** FW: Warrant

Do you know anything about this???

---

**From:** Michael Hlavsa [mailto:mhlavsa@gerova.com]
**Sent:** Tuesday, September 28, 2010 12:27 PM
**To:** Weiss, Stephen
**Subject:** Warrant

Steve:
Per our conversation, attached are the documents that I have received in connection with warrant being issued and exercised.
Michael

**MICHAEL HLAVSA**
**Chief Financial Officer**
**GEROVA Financial Group, Ltd.**
Cumberland House, 5th Floor
1 Victoria Street
Hamilton, HM 11
Bermuda
Main telephone: 441-296-7777
Direct: 954-727-1925 | Cell: 954-868-7366
Email: mhlavsa@gerova.com

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